

Elizabeth M. Rotenberg-Schwartz (ER 2607)
SHEPPARD MULLIN RICHTER & HAMPTON LLP
30 Rockefeller Plaza
Suite 2400
New York, New York 10112
(212) 332-3800

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

CAI INTERNATIONAL, INC.,

Plaintiff,

v.

MEGAFLEET (PRIVATE) LIMITED,
INSHIPPING (PRIVATE) LIMITED, INSHIP
(PRIVATE) LIMITED, INSERVEY
PAKISTAN (PRIVATE) LIMITED,
MEGAIMPEX PAKISTAN (PRIVATE)
LIMITED, MEGA IMPEX (PRIVATE)
LIMITED, MEGATECH (PRIVATE)
LIMITED, MEGATRANS PAKISTAN
(PRIVATE) LIMITED, INTRA 21 (PRIVATE)
LIMITED, INTRA TWENTY ONE
(PRIVATE) LIMITED, MSC PAKISTAN
(PRIVATE) LIMITED, FORBES FORBES
CAMPBELL & CO (PRIVATE) LIMITED, M-
LOG (PRIVATE) LIMITED, FORBES
SHIPPING (PRIVATE) LIMITED, FORBES
LATHAM (PRIVATE) LIMITED, FORBES
TELECOMMUNICATIONS (PRIVATE)
LIMITED, FORBES TELECOM (PRIVATE)
LIMITED, MEGATRAVEL PAKISTAN
(PRIVATE) LIMITED, SEACON (PRIVATE)
LIMITED, SEALOG (PRIVATE) LIMITED,
SEAEXPRESS (PRIVATE) LIMITED,
FORBES LOGISTICS (PRIVATE) LIMITED,
FORBES LOGICOM (PRIVATE) LIMITED,
MEGARAIL (PRIVATE) LIMITED,
MEGATRANSPORT (PRIVATE) LIMITED,
FORBES SHIPPING COMPANY (PRIVATE)
LIMITED, M. HABIBULLAH KHAN,
MEGAFEEDER (PRIVATE) LIMITED,
Defendants.

No. 07-CV-3728(LLS)

**DECLARATION OF ELIZABETH M.
ROTENBERG-SCHWARTZ IN
OPPOSITION TO DEFENDANTS'
MOTION TO VACATE THE ORDER OF
MARITIME ATTACHMENT**

I, Elizabeth M. Rotenberg-Schwartz, declare as follows:

1. I am a an attorney associated with the law firm of Sheppard, Mullin, Richter & Hampton, LLP, counsel for plaintiff CAI International, Inc. ("CAI") in this action. I have personal knowledge of the facts set forth in this declaration, except those asserted on information and belief.

2. I submit this Declaration in Opposition to Defendants' Motion to Vacate the Order of Maritime Attachment.

3. CAI entered into two ocean cargo container lease agreements (the "Agreements"), CAI reference numbers: MEGA-001, dated May 3, 2006, attached as Exhibit "A," and MEGA-002, dated June 1, 2006, attached as Exhibit "B," with "Megafeeder (Private) Limited and Mega & Forbes Group of Companies" ("Lessees").

4. Defendant M. Habibullah Khan is Chairman & Managing Director of the Mega & Forbes Group of Companies ("Mega & Forbes Group"). See http://www.mega-intl.info/megaasp/htm/chmsg/ch_message.asp.

5. Khan represented to CAI by e-mail correspondence to CAI's Korean agent Wan Hee Lee, that he and Mr. Shakeel Hyder, the Senior Manager of Megafeeder (Private) Limited ("Megafeeder") and Mega & Forbes Group, had authority to negotiate the terms of the Agreements on behalf of Lessees. Declaration of Wan Hee Lee, dated June 22, 2007 ("Lee Decl."), at ¶ 9.

6. During the course of the negotiations, CAI requested and Mega & Forbes Group provided CAI with their most recent financial information. See Lee Decl. Ex. A.

7. CAI specifically inquired who the actual lessees would be and informed Khan/Hyder that "[i]f they want one of the subsidiary companies to be the lessee, we need the company whose balance sheet we received to be a co-lessee since this is the company on which we are basing our credit decision." Lee Decl. Ex. B at 1.

8. Mega & Forbes Group decided to add Megafeeder as a Lessee in the Agreements, as Hyder confirmed "the lease will be executed in the name of MEGAFEEDER (PVT) LIMITED, an associate undertaking of Mega & Forbes Group. MEGAFEEDER is a Private Limited Company specifically formed as a regional carrier, this company will be converted in to a Public Limited in the next 24 months." Lee Decl. Ex. D.

9. On or about May 12, 2006, Hyder sent a letter enclosing copies of the executed agreement "duly signed on behalf on Mega & Forbes Group and Megafeeder (pvt) Ltd." to Susan Fox of CAI. A copy of which is attached as Exhibit "C."

10. Khan made several payments of Lessee's obligations under the Agreements from bank accounts that appear to stand in his name alone. See Declaration of Frederic Bauthier, dated June 22, 2007, Ex. A.

11. Mr. Khawaja Shams-ul-Islam, a Pakistani lawyer acting for defendant Megafeeder, by letter dated March 26, 2007, attached as Exhibit "D," repudiated the agreement on Megafeeder's behalf asserting CAI has no contract with Megafeeder.

12. By letter dated April 13, 2007, sent by its attorney, attached as Exhibit "E," CAI terminated the Agreements and requested he, as Megafeeder's representative, sign a letter authorizing release of CAI's containers.

13. Megafeeder's lawyer responded by letter dated April 16, 2007, attached as Exhibit "F," refusing to sign a letter directing release of the containers.

14. Recognizing that it had no way to secure payment from Defendants, CAI commenced this action on May 11, 2007. On May 11, 2007, this Court issued an *ex parte* Order for Process of Maritime Attachment ("Order"), which CAI served on the garnishee banks named in the Order.

15. On or about May 16, 2007, BNP Paribas seized an electronic fund transfer ("EFT") in the amount of \$193,880.13 originating from Defendant MSC Pakistan (Private) Limited ("MSC").

16. On or about May 21, 2007, Deutsche Bank seized an EFT in the amount of \$31,292.00 for the benefit of Defendant Khan.

17. On May 18 and 22, 2007, respectively, CAI promptly notified Defendants MSC and Khan of the seizures in accordance with Local Admiralty Rule B.2. Copies of which are attached as Exhibits "G" and "H" respectively.

18. On or about May 19, 2007, Mr. Shams-ul-Islam sent a letter motion *ex parte* to the Honorable Louis Stanton seemingly requesting that the Court vacate the Order ("Letter Motion"). A copy of which is attached as Exhibit "I."

19. Defendants have not posted any security to effect release of the attachment.

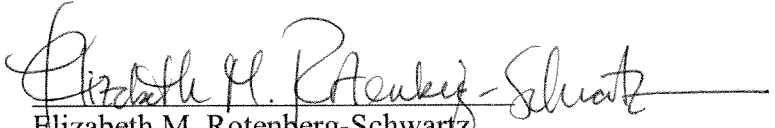
20. In preparing to file Plaintiff's opposition, I discovered that Defendants' website content had been removed from their site <http://www.mega-intl.info/>. Their website now states that the "site is under construction." See <http://www.mega-intl.info/>.

21. On or about May 10, 2007, a member of Sheppard Mullin Richter & Hampton, LLP viewed Defendants' website and printed the relevant pages cited in Plaintiff's memorandum. See http://www.mega-intl.info/megaasp/htm/chmsg/ch_message.asp attached as Exhibit "J,"

<http://www.mega-intl.info/megaasp/htm/aboutus.asp> attached as Exhibit "K;" http://www.mega-intl.info/megaasp/htm/Corp_Structure.asp attached as Exhibit "L."

I declare under penalty of perjury that the foregoing is true and correct.

Executed June 22, 2007 in New York, New York.


Elizabeth M. Rotenberg-Schwartz